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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/992,414

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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

12

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/992,414

Applicant(s)

DUDKIEWICZ ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Eick et al. (U.S. Patent No. 5,912,664).

Referring to claim 1, Eick discloses a category tool for receiving input from a user specifying predefined subject matter categories representing subject matter of interest to the viewer (see Figure 7 and Column 7, Lines 25-28).

Eick also discloses the subject matter represented by each of said predefined categories is defined such that the predefined categories together form a hierarchy comprising at least a set of top-level categories, respective sets of first level-sub categories each corresponding to and encompassed by a top level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category (see Figure 7 for the top level categories, Figure 8 for the first sub-level of categories and Figure 9 for the second sub-level of categories, and therefore provide a hierarchy of categories).

Eick also discloses that the category tool is responsive to user navigation commands to provide navigation among said predefined categories in accordance with said hierarchy (see Column 7, Lines 25-28, Lines 46-49 and Line 67 and Column 8, Lines 1-4 for navigating through the three levels of categories).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 20-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eick et al. (U.S. Patent No. 5,912,664) in view of Lee et al. (U.S. Patent No. 6,483,428).

Referring to claim 2, Eick discloses all of the limitations in claim 1, but fails to disclose the limitations of a keyword tool. Lee discloses that the user interface further comprises a keyword tool for receiving input from a user specifying keywords representing subject matter of interest to the viewer (see step S135 in Figure 18).

At the time the invention was made, it would have been obvious of ordinary skill in the art, to modify the hierarchical menu system as taught by Eick, using the keyword tool, as taught by Lee, for the purpose of providing faster access and a more efficient search technique to a user in order to quickly find preferred programming.

Claim 3 corresponds to claim 2, where Lee discloses that input received by said keyword tool comprises keyword preference scores indicating an amount of viewer interest in subject matter represented by a specified keyword (see step S140 in Figure

18 for identifying common terms using the keywords and then ranking the entire list in step S145).

Claim 4 corresponds to claim 1, where Lee discloses that input received by said category input tool comprises category preference scores indicating an amount of viewer interest in subject matter represented by a specified predefined category (see Column 10, Lines 16-24 for specifying a category score).

Referring to claim 5, see rejection of claim 2. The examiner notes that a keyword and a qualified keyword is still a "keyword". The term "qualified" does not limit this limitation.

Referring to claim 6, see rejection of claim 3. The examiner notes that a keyword and a qualified keyword is still a "keyword". The term "qualified" does not limit this limitation.

Claim 7 corresponds to claim 4, where Lee discloses element 140' in Figure 7 for specifying how much a user likes and dislikes certain categories of programs.

Claim 8 corresponds to claim 1, where Lee discloses a priority tool for receiving input from a user specifying a priority of said viewer profile relative to other viewer profiles when multiple viewer profiles are used for determining programming events of interest (see Column 4, Lines 29-34 for adjusting the weighting of a user profile).

Claim 9 corresponds to claim 1, where Lee discloses an alert per time period tool for receiving input from a user specifying a maximum number of alerts to be generated within a given time period using said viewer profile (see Column 3, Lines 31-34 for

alerting a viewer of upcoming programming event, also note Column 3, Lines 23-25 for monitoring the user's viewing pattern (i.e. viewer input)).

Claim 10 corresponds to claim 1, where Lee discloses an alert time advance tool for receiving input from a user specifying, for a programming event determined to be of interest using said viewer profile, an amount of time prior to the programming event that an alert for the programming event is to be provided (see Column 3, Lines 23-48 for alerting the viewer of an upcoming programming according to a viewer profile). Note that at Column 3, Lines 31-34, the alert is for an "upcoming program", therefore the user is inherently alerted before the program will be viewed.

Claim 11 corresponds to claim 1, Lee discloses a profile activation time tool for receiving input from a user specifying times of day during which the viewer profile is to be used for identifying programming events of interest (see Column 4, Lines 54-62 for ranking a time range when a viewer would like to view programs).

Claim 12 directly relates to claim 1, where Eick discloses all of the limitations in claim 1 (as disclosed in the 102(b) rejection above) as well as Lee disclosing the additional limitation of storing data representing said specified predefined categories in a viewer profile in a computer readable medium (see Column 7, Lines 11-18 for storing preference and profile information).

Referring to claims 13-20, see rejection of claims 2-3, 5, 4 and 8-11, respectively.

Referring to claim 21, see rejection of claim 12.

Referring to claims 22-29, see rejection of claims 2-3, 5, 4 and 8-11, respectively.


### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 21, 2004

  
VIVEK SRIVASTAVA  
PRIMARY EXAMINER